

## **REMARKS**

With this Response, no claims are amended, added, or canceled. Therefore, claims 1-91 are pending.

## **CLAIM REJECTIONS - 35 U.S.C. § 103**

Claims 1-6, 15-16, 22, 24-27, 34-37, 40-46, 55, 57-69, 78 and 80-85 were rejected under 35 U.S.C. § 102(e) as being unpatentable over U.S. Patent Number 6,810,258 of Vialen et al. (hereinafter "Vialen"). Applicants respectfully submit that these claims are not anticipated by the cited reference for at least the following reasons.

Claim 1 recites the following

**Receiving a random access request** for a traffic channel of a plurality of traffic channels **on a first random traffic channel of the plurality of traffic channels**, the traffic channels to be selectively allocatable by the base station for communication with a user terminal;

Determining whether a traffic channel of the plurality of traffic channels is available to allocate to the requestor; and

Communicating to the requestor whether a traffic channel of the plurality of traffic channels is available.

Claims 16, 34, 36, and 64 are likewise independent claims and include limitations directed to a request for a traffic channel on a traffic channel.

Applicants' note that the Office Action again argued the claims above with independent claims 41, 60, and 63, without acknowledging differences in the claims. Claim 41 recites the following:

Receiving a request for an access channel of a plurality of channels **on a first unallocated channel** of the plurality of channels;

Determining whether an access channel of the plurality of channels is available; and

Communicating to the requestor whether an access channel of the plurality of channels is available.

Claims 60 and 63 recite similar limitations directed to a request for a (network) access channel an unallocated channel of multiple channels.

Applicants note there is a fundamental technological understanding required to grasp the significance of the claims and their distinction from traditional systems. It is not clear to Applicants from the Office Action whether the Office understands the technological underpinning, despite Applicants' best efforts to explain it in previous Responses. Traditionally, requests for a traffic channel or access channel are received on a channel that is specifically

dedicated to receive such requests. Such a dedicated channel is generally referred to as a "random access channel" because it is a channel dedicated to receiving random access traffic. In contrast to what is done in traditional systems, Applicants point to Applicants' claims, which include limitations directed to a request for a traffic channel on a traffic channel (claims 1, 16, 34, 36, and 64), and to a request for a (network) access channel an unallocated channel of multiple channels (claims 41, 60, and 63). Thus, in the claimed invention, requests for access are not received on a control channel or assigned random access channel; rather, **requests are received on one of same traffic channels or network access channels** that are allocatable by the base station for communication with the user terminals for network access.

Applicants note that nowhere does the Office Action contain any reasoning or explanation as to how the claims or the cited references are being interpreted. Thus, the Office Action is devoid of reasoning, in contradiction of the duty of the Office. Per MPEP § 706 and 37 CFR 1.104(c)(2), "In rejecting claims for want of novelty or for obviousness, the examiner must cite the best references at his or her command.... The pertinence of each reference, if not apparent, ***must be clearly explained*** and each rejected claim specified." Emphasis added. Applicants submit that neither Applicants nor the ordinary person skilled in the art could understand from the Office Action what the pertinence of the Vialen reference is. And yet, the Office has failed to provide the clear explanation required.

As Applicants have understood, Vialen discusses resolution of contention on a random access channel. See Abstract. More particularly, see col. 3, lines 1 to 2 (the invention "is arranged to **transmit a random access request message on a random access channel....**") and col. 9, lines 18 to 22 ("The signalling bearer is negotiated by using **common channels. The random access channel** is used in the direction of the network part 128 and **the access grant channel** is used in the direction of the subscriber terminal 150."). In both sections referred to above, the reference refers to the use of dedicated channels to handle random access requests. The Abstract further states that "contention is resolved in such a way that (420) the radio network sublayer ... **transmits on the dedicated channel** a response message...." Thus, the Vialen reference is no different from the traditional systems to which the invention is directed, and which Applicants have previously argued. Applicants thus submit that the pertinence of the reference is not clear. If the Office is interpreting the claims and/or the cited references in a way that would seem to make the claims read on Vialen (which Applicants submit there is no such reasonable interpretation), then the Office must provide a well-reasoned explanation based in

technical facts to explain the purported applicability of the reference to afford Applicants an opportunity to respond.

Applicants again submit that nowhere in the Vialen reference is there a teaching or suggestion that would disclose Applicants' invention as recited in the independent claims to one of skill in the art. Therefore, the independent claims are not anticipated by the reference. Furthermore, the dependent claims necessarily include the limitations of the independent claims from which they depend, and so are not anticipated by the reference for at least the same reasons as the independent claims.

### **CLAIM REJECTIONS - 35 U.S.C. § 103**

Claims 7-8, 11, 18, 47-48, 51, 70-71 and 74 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Number 6,810,258 to Vialen et al. (hereinafter "Vialen"), in view of U.S. Patent Publication Number 2002/072348 to Wheeler et al. (hereinafter "Wheeler").

Claims 9-10, 39, 49-50, 56, 72-73 and 79 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Number 6,810,258 to Vialen et al. (hereinafter "Vialen"), in view of U.S. Patent Publication Number 2002/087740 to Castanho et al. (hereinafter "Castanho").

Claims 12-14, 52-53 and 75-76 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Number 6,810,258 to Vialen et al. (hereinafter "Vialen"), in view of U.S. Patent Publication Number 2003/0163393 to Mittal et al. (hereinafter "Mittal").

Claims 17 and 38 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Number 6,810,258 to Vialen et al. (hereinafter "Vialen"), in view of U.S. Patent Number 6,006,084 to Miller et al. (hereinafter "Miller").

Claims 20 and 32-33 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Number 6,810,258 to Vialen et al. (hereinafter "Vialen"), in view of U.S. Patent Publication Number 2002/065081 to Barany et al. (hereinafter "Barany").

Claims 28-29 and 30-31 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Number 6,810,258 to Vialen et al. (hereinafter "Vialen"), in view of U.S. Patent Number 5,345,549 to Buchenhorner et al. (hereinafter "Buchenhorner").

Claims 86-91 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Number 6,810,258 to Vialen et al. (hereinafter "Vialen"), in view of U.S. Patent Publication Number 2003/0133426 to Schein et al. (hereinafter "Schein").

Applicants note that each of the above rejections is based on the defective rejection under Vialen, as discussed above. Thus, each of the rejections of these claims is defective at least for the reasons noted above. As Applicants have understood the secondary references referred to here, none is cited as curing the deficiencies of Vialen. Applicants submit that rather than curing the deficiencies of Vialen, the cited references are similarly defective. Wheeler is directed to requesting and dispatching emergency services, and is completely inapplicable to the problem solved by Applicants' claims directed to random access requests on a channel not dedicated to random access. Castanho is directed to web browsing, and there is no explanation provided in the Office Action why the Castanho reference should be considered to be applicable to random access requests in network access grants. Mittal is directed to network-based data storage, and there is no explanation why such a reference should be considered applicable to random access requests in network access grants. Miller is directed to billing of wireless communication, and is not shown to be applicable to random access requests in network access grants. Barany is directed to selection of wireless protocols in access devices, and is not shown to be applicable to random access requests in network access grants. Buchenhorner is directed to sending channel requests at different power levels until a connection is established, and is not shown to be applicable to random access requests in network access grants. Schein is directed to assigning random access channels among different radios, and is not shown to be applicable to random access requests in network access grants.

Applicants are obviously not privy to the manner in which each of the cited references was selected, but note that most of the references are not even in the same technology space, and are not directed to the technology or the problems being addressed in Applicants' claims. The references appear to have been randomly selected. Furthermore, the references are not applicable to each other, and there is no motivation to combine any of the references with each other. The references address different technologies, and no technical reasoning has been provided to suggest why such references can or would be combined.

Applicants must necessarily submit that none of the secondary references cures the deficiencies of Vialen. The references fail to disclose, whether alone or in combination, at least one feature of the claimed invention, and so fail to support a rejection of the claims.

## **CONCLUSION**

For at least the foregoing reasons, Applicants submit that the rejections of the claims have been overcome herein, placing all pending claims in condition for allowance. Such action is earnestly solicited. The Examiner is respectfully requested to contact the undersigned by telephone if such contact would further the examination of the above-referenced application.

Please charge any shortages and credit any overcharges to our Deposit Account number 02-2666.

Respectfully submitted,  
**BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN, LLP**

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/Vincent H. Anderson/  
Vincent H. Anderson  
Reg. No. 54,962  
Attorney for Applicant

1279 Oakmead Parkway  
Sunnyvale, CA 94085-4040  
(503) 439-8778